

ASSEMBLY BILL

No. 1324

Introduced by Assembly Member Bill Berryhill

February 18, 2011

An act to amend Section 6501 of the Business and Professions Code, relating to professions and vocations.

LEGISLATIVE COUNSEL'S DIGEST

AB 1324, as introduced, Bill Berryhill. Professional fiduciaries.

Existing law, the Professional Fiduciaries Act, requires a professional fiduciary to be licensed by the Professional Fiduciaries Bureau within the Department of Consumer Affairs. Existing law defines various terms for the purposes of the act.

This bill would make a technical, nonsubstantive change to that provision.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 6501 of the Business and Professions
- 2 Code is amended to read:
- 3 6501. As used in this chapter, the following terms *shall* have
- 4 the following meanings:
- 5 (a) "Act" means this chapter.
- 6 (b) "Bureau" means the Professional Fiduciaries Bureau within
- 7 the Department of Consumer Affairs, established pursuant to
- 8 Section 6510.

1 (c) “Client” means an individual who is served by a professional
2 fiduciary.

3 (d) “Department” means the Department of Consumer Affairs.

4 (e) “Licensee” means a person who is licensed under this chapter
5 as a professional fiduciary.

6 (f) (1) “Professional fiduciary” means a person who acts as a
7 conservator of the person, the estate, or person and estate, or
8 guardian of the estate, or person and estate, for two or more
9 individuals at the same time who are not related to the professional
10 fiduciary or to each other.

11 (2) “Professional fiduciary” also means a person who acts as a
12 trustee, agent under a durable power of attorney for health care,
13 or agent under a durable power of attorney for finances, for more
14 than three individuals, at the same time.

15 In counting individuals under this paragraph to determine
16 whether a person is a professional fiduciary:

17 (A) Individuals who are related to the fiduciary shall not be
18 counted.

19 (B) All individuals who are related to each other shall be counted
20 as one individual.

21 (C) All trustors who are related to each other shall be counted
22 as one individual, and neither the number of trusts nor the number
23 of beneficiaries of those trusts shall be counted.

24 (3) For purposes of this subdivision, “related” means related by
25 blood, adoption, marriage, or registered domestic partnership.

26 (4) “Professional fiduciary” does not include any of the
27 following:

28 (A) A trust company, as defined in Section 83 of the Probate
29 Code.

30 (B) An FDIC-insured institution, or its holding companies,
31 subsidiaries, or affiliates. For the purposes of this subparagraph,
32 “affiliate” means any entity that shares an ownership interest with,
33 or that is under the common control of, the FDIC-insured
34 institution.

35 (C) Any public agency, including the public guardian, public
36 conservator, or other agency of the State of California or of a
37 county of California or any regional center for persons with
38 developmental disabilities as defined in Section 4620 of the
39 Welfare and Institutions Code.

1 (D) A person employed by an entity or agency described in
2 subparagraph (A), (B), or (C) who is acting within the course and
3 scope of that employment, and a public officer of an agency
4 described in subparagraph (C) acting in the course and scope of
5 official duties.

6 (E) Any person whose sole activity as a professional fiduciary
7 is as a broker-dealer, broker-dealer agent, investment adviser, or
8 investment adviser representative registered and regulated under
9 the Corporate Securities Law of 1968 (Division 1 (commencing
10 with Section 25000) of Title 4 of the Corporations Code), the
11 Investment Advisers Act of 1940 (15 U.S.C. Sec. 80b-1 et seq.),
12 or the Securities Exchange Act of 1934 (15 U.S.C. Sec. 78a et
13 seq.), or involves serving as a trustee to a company regulated by
14 the Securities and Exchange Commission under the Investment
15 Company Act of 1940 (15 U.S.C. Sec. 80a-1 et seq.).

16 (g) “Committee” means the Professional Fiduciaries Advisory
17 Committee, as established pursuant to Section 6511.